

In the High Court of Punjab and Haryana, at Chandigarh

F.A.O. No. 2242 of 2022 (O&M)

Date of Decision: 25.05.2022

United India Insurance Company Limited

... Appellant(s)

Versus

Birpal and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Neeraj Khanna, Advocate
for the appellant(s).

Anil Kshetarpal, J.

1. While assailing the correctness of the award passed by the Motor Accident Claims Tribunal, Patiala (hereinafter referred to as “the Tribunal”), the insurance company has filed the present appeal.

2. Late Sh. Jai Bhagwan was going on his motorcycle to attend the marriage of Bhagwan Singh son of his brother-in-law Balbir Singh alias Bira, along with his wife Birpal Kaur, who was sitting at pillion. His motorcycle was going ahead of a car, which was being driven in a rash and negligent manner, hit his motorcycle from the front side causing death of the deceased. Late Sh. Jai Bhagwan was stated to be aged about 56 years at the time of his death. The FIR No. 21 dated 14.02.2020 was registered after a period of four days, however, the incident was reported to the police on the same day. In the FIR, the make and colour of the car was disclosed. However, its registration plate number is not mentioned in the FIR.

compensation of ₹11,85,600/-.

4. Heard the learned counsel representing the appellant and with his able assistance, perused the paper-book.

5. The learned counsel representing the appellant contends that the vehicle bearing registration plate No.PB-08-CK-0638 was falsely implicated by the police on 07.07.2020 i.e. after a period of approximately five months, from the date of accident. He further contends that the mechanical report of the aforesaid car does not corroborate the version given by the witnesses produced by the claimants. He submits that as per the mechanical report, left side of the mudguard and tyres of the car are damaged. Whereas it is the case of the claimants that the accident took place on account of head-on collision between the car and motorcycle. He further submits that the Tribunal has erred in assessing the amount of compensation.

6. In order to prove the accident, Jatinder Singh (deceased's son), stated to be an eye witness, has deposed about the manner in which the accident occurred. The claimant-Birpal Kaur, who was travelling on the pillion along with the deceased, has appeared as CW.2. Balbir Singh alias Bira, author of the FIR, has also been examined as CW.3.

7. The learned counsel representing the appellant does not dispute that the make, model and colour of the car has correctly been described in the FIR. The learned counsel, despite the searching questions, has failed to impeach the credibility of the eye witnesses, namely Birpal Kaur, Jatinder Singh and Balbir Singh alias Bira. CW.3 Balbir Singh alias Bira has stated that he disclosed the registration plate number to the police while getting the FIR registered, but the police failed to record the same in the FIR. The

probabilities. When the intimation was given to the police on the same day when the accident occurred and the make, model and colour of the offending vehicle was disclosed, while submitting the complaint to the police, involving a false vehicle, became a very remote possibility as there was no time wasted while registering the FIR. Apart therefrom, three witnesses have categorically stated about the involvement of the car, in question, in the accident. The police, after investigation of the FIR, has also presented challan against Sukhwinder Singh. The Tribunal, on appreciation of evidence, recorded a finding of fact, which is not proved to be suffering from any material error. Hence, the first argument of the learned counsel representing the insurance company cannot be accepted, as it has no weightage.

8. The Tribunal has assessed the income of the deceased @ ₹12,000/- per month. He was working as a Chowkidar in a Deaf and Dumb School. It is also claimed that apart from the working as a Chowkidar, he was working as a freelance Electrician. The deceased was drawing the salary of ₹7,000/- per month as the Chowkidar. He left behind his widow and two children. The accident took place in the year 2020. Birpal Kaur as well as her son Jatinder Singh have stated that the deceased was working as a freelance Electrician.

9. In these circumstances, the assessment of income does not require any interference by this Court. The Tribunal, while applying deduction of 1/4th, has calculated the dependency @ 1,13,400/- per annum. The Tribunal has also added the future prospects @ 5% before applying deduction of 1/4th. The Tribunal has calculated the amount after applying

the multiplier of 9. The Tribunal has awarded ₹1,32,000/- towards loss of

consortium to all the three claimants, which includes spousal as well as parental consortium.

10. Keeping in view the aforesaid facts, no ground is made out to interfere. Hence, the present appeal is dismissed.

11. The miscellaneous application(s) pending, if any, shall stand disposed of.

(Anil Kshetarpal)
Judge

May 25, 2022
“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No